

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Communications Assistance for  
Law Enforcement Act

CC Docket No. 97-213


To: The Commission

REPLY COMMENTS OF THE  
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS  
ASSOCIATION, INC.

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The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association") respectfully submits its Reply Comments in respect to issues regarding standards for the assistance capability requirements under consideration in this proceeding.<sup>1</sup> Consistent with the views of numerous parties to this proceeding, AMTA urges the FCC to resolve as expeditiously as possible critical outstanding matters raised in this rulemaking, in particular those related to the adequacy of the industry-developed standard in satisfying the legal requirements imposed by CALEA and the need for an industry-wide extension of the current compliance date imposed by the statute. In support thereof the following is shown.

## **I. INTRODUCTION.**

1. AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association's members include trunked and conventional 800 MHz and 900 MHz Specialized Mobile Radio ("SMR") service operators, licensees of wide-area SMR systems, and commercial licensees in the 220 MHz and 450-512 MHz bands. These operators provide commercial wireless service throughout the country and fall within the definition of "telecommunications carrier" set out in the CALEA enabling legislation. Most provide primarily two-way dispatch service throughout the nation; some offer ancillary interconnection with the Public Switched Network ("PSN") as well.

2. At the outset, AMTA must emphasize that its members have in the past and will in the future cooperate with law enforcement personnel in court-ordered electronic surveillance

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<sup>1</sup> In the Matter of Communications Assistance for Law Enforcement Act, CC Docket No. 97-213, DA 98-762 (April 20, 1998) ("CALEA Public Notice"). An Order extending the time to file Reply Comments in this proceeding was adopted on June 3, 1998. Order, CC Docket No. 97-213, DA 98-1048 (rel. June 4, 1998). CALEA was enacted on October 25, 1994 and adopted as Pub. L. No. 103-414, 108 Stat. 4279; 47 U.S.C. § 1001-1010.

to the maximum extent possible, whether or not that assistance is provided pursuant to CALEA requirements. The issue is not whether these licensees are committed to supporting authorized law enforcement activities, but how those activities will be assisted.

3. The Federal Bureau of Investigation/Department of Justice ("FBI") to date has not identified CALEA capacity requirements for the activities of the vast majority of the telecommunications carrier members represented by AMTA. The Association is not even certain that the FBI intends to include the majority of AMTA members under the auspices of CALEA. Moreover, the technical document setting out standards for CALEA compliance developed under the auspices of the Telecommunications Industry Association ("TIA"), the so-called "safe harbor" standard identified as J-STD-025, specifically disclaims applicability to operators other than wireline, cellular and broadband PCS carriers.<sup>2</sup> Nonetheless, out of an abundance of caution, the Association will take this opportunity to notify the Commission and the FBI of AMTA's ongoing activities in this area.

**II. CALEA COMPLIANCE OBLIGATIONS SHOULD BE PRECEDED BY AN AFFIRMATIVE FBI DETERMINATION TO INCLUDE THIS PARTICULAR CLASS OF TELECOMMUNICATIONS CARRIER IN THE CALEA CAPACITY REQUIREMENTS.**

4. The Commission already is well informed in respect to the still substantial areas of disagreement between key segments of the telecommunications industry and the FBI on CALEA implementation matters. Efforts to resolve those issues have not yet been successful although both sides have expended substantial resources on the task. The focus of this attention, not surprisingly, has been on the implications for both wireline telephone companies and their

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<sup>2</sup> Comments of the TIA, filed May 20, 1998, at n.48.

consumer-oriented, wireless counterparts providing toll-quality telephone capability: cellular and broadband PCS. This is consistent with the FBI's announced intention to devote its available resources for electronic surveillance to areas with the greatest likelihood of identifying, interdicting and prosecuting criminal activities.

5. By contrast, the FBI has not yet provided any guidance in respect to capacity requirements for the SMR and other commercial wireless systems operated by AMTA's members or indicated that it intends to do so.<sup>3</sup> It has not responded to previous AMTA filings suggesting that additional information would be needed if the FBI intended to include these systems under the CALEA surveillance parameters.<sup>4</sup> In those submissions, the Association explained that many of the systems operated by its members, although technically classified as telecommunications carriers, provide dispatch-only service. They are not interconnected with the PSN. To the extent a law enforcement agency is authorized to intercept the content of a subscriber's communications, their transmissions can be monitored easily over-the-air. Those systems offering ancillary PSN interconnection do not perform any in-system switching,

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<sup>3</sup> The Joint Petition for Expedited Rulemaking filed on March 27, 1998 by the FBI and the Department of Justice ("DOJ") states:

This petition is being filed because the interim standard [concerning electronic surveillance assistance requirements for telecommunications carriers providing **wireline, cellular and personal communications services**] lacks specified electronic surveillance assistance capabilities and related provisions that are required by CALEA. Joint Petition at ¶ 3. [emphasis added]

The Joint Petition is silent on the issue of SMRs and CALEA.

<sup>4</sup> See, e.g., Comments of AMTA filed on January 16, 1996 with the Telecommunications Industry Liaison Unit of the FBI, In the Matter of Implementation of the Communications Assistance for Law Enforcement Act.

but simply allow customers to make and sometimes receive calls over regular business telephone lines acquired by the system operator.

6. It is not possible to determine whether the FBI's silence indicates only that it has not had the opportunity to consider CALEA requirements for these systems or whether it has concluded, as AMTA believes it should, that the technical parameters of these systems do not lend themselves to the narrowly-targeted interception activities addressed under CALEA. In either case, it would not be reasonable to attempt to impose CALEA obligations on carriers whose service offerings and technical capabilities have not been affirmatively considered by the FBI since it is not possible to divine what, if any, standards the FBI might deem appropriate.

7. Despite the absence of FBI clarification on this point, AMTA has elected to initiate a standards-setting process for this segment of the wireless telecommunications industry. It has enlisted the involvement of both equipment manufacturers and system operators and would welcome FBI participation as well.<sup>5</sup> This undertaking may prove unnecessary if the FBI concludes, as it should, that surveillance activities will be best accomplished by intercepting the very limited interconnected traffic transmitted over a typical SMR systems at the local exchange carrier switch.

8. The Association nonetheless has initiated this effort because it is supportive of the policy objectives embodied in the legislation and intends to cooperate with law enforcement agencies to accomplish them when practically possible. AMTA also has recognized its

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<sup>5</sup> The Personal Communications Industry Association undertook a comparable effort for the paging/messaging services provided by many of its members. That segment of the telecommunications industry, like the systems represented by AMTA, has not been included in the FBI's capacity requirements list and is not addressed in the J-STD-025 standard developed by TIA.

obligation to provide its members with a "safe harbor" industry standard for compliance should they elect to use it, just as TIA and PCIA have developed standards for the cellular/PCS and paging/messaging services, respectively. Without such a standard, crushing economic penalties could be imposed on member operators, including numerous very small businesses, if the Commission does not extend the current October 25, 1998 compliance deadline. Thus, AMTA has determined that it is good public policy, as well as potentially valuable insurance for its members, to initiate a standards development project.

#### **IV. CONCLUSION.**

9. AMTA urges the Commission to consider the comments above in its deliberations in this proceeding.

## CERTIFICATE OF SERVICE

I, Linda J. Evans, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this June 12, 1998, caused to be hand delivered a copy of the foregoing Reply Comments to the following:

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